

the Committee.

PRESIDENT CASSELL: Delegate Freeman?

MS. FREEMAN: Mr. President, I move an amendment for the Committee, beginning on line 5, so that it would read, "exclusively for religious purposes or for nonprofit, educational, or charitable purposes, or as required by Federal law".

(The motion was duly seconded.)

PRESIDENT CASSELL: That amendment has been moved and seconded.

Mr. Jackson, state your point.

MR. JACKSON: Yes, sir. Since the definition of "charitable purposes" was not in the report, could they redefine those things, what they mean by "nonprofit, educational, and charitable organizations".

PRESIDENT CASSELL: Mr. Coates, do you want to respond to that question?

MR. COATES: I'd like a restatement of the question, sir.

PRESIDENT CASSELL: Delegate Jackson?

MR. JACKSON: Exactly what do you mean by "nonprofit, educational, and charitable" -- especially "charitable" -- "organizations"? I'm asking if, by "charitable", you mean

the Daughters of the American Revolution, the National Guard, National Rifle Association, National Geographic, et cetera, et cetera.

MS. FREEMAN: Well, "nonprofit" is a legal term. The IRS grants nonprofit status to organizations, so in part, it is defined that way. In addition to that, the legislature would have the ability to determine which institutions it would exempt from taxation.

PRESIDENT CASSELL: Delegate Mason?

MR. MASON: I would ask the Committee to speak to the question of what is meant by "as required by Federal law". Does that mean those things which neither this state nor any other state can constitutionally tax, such as Federal property, foreign embassies, et cetera, or are you trying to say Federal law includes statutes enacted by Congress pre-home rule, where Congress was acting with its local hat on, and we have the power to repeal? There are approximately 40 organizations, including the DAR, including some of those others that have been mentioned, but also including Howard University, et cetera, where Congress specifically authorizes tax exemption. However, they did it really acting as a local legislature. This is a statute peculiar to the District of Columbia. It is within the power of the Council now to repeal



or change. Dave Clarke introduced legislation to repeal all 40 of these and simply let these organizations apply under the general laws of the District of Columbia. Most of them would qualify, some of them would not. That bill was reported out by the Committee a year or two ago; however, it never was adopted by the Council.

I simply want to get on the record that when you say "Federal law", you mean those where constitutionally, the state can't tax, and you are not including in the term, "Federal law", statutes that were enacted pre-home rule by Congress, but which are in fact, local District of Columbia laws.

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MR. COATES: That is the intent of the Committee's recommendation, Delegate Mason, those organizations which are on the list under Title 47.

MR. MASON: I would point out, some of them are in Title 47, some of them are not, but there are at least 40 where Congress enacted special statutes, and whoever codified the Code put some of them in and left some of them out, but they are all in the same category.

MR. COATES: So that the record is clear, Mr. President, it is the intent of the Committee to accept only those that are constitutionally required by Federal law to enjoy the exemption, and not others.

PRESIDENT CASSELL: Delegate Shelton?

MS. SHELTON: I was trying to seek to understand a little bit more, because what we will find ourselves in is a non-taxable land all over the new state. So I want to make sure that -- there is already so much land that is available to us that is non-taxable -- I wanted to make sure that I understood the special section, and I am just attempting to understand that you are talking about lands that are now already covered by Federal law, or are we talking about a new set of groups that could -- we have so much nonprofit educational services in the District of Columbia, including major universities and small, private schools, and with the proposed legislation to exempt certain new tax incentives, I would imagine that the new private schools would be flourishing. I just want to make sure that I understand the full impact of this particular section, and I wondered whether you could sort of explain this a little further in terms of its future possibilities. I think I understand the present status,, but a nonprofit educational institution could include the new Shelton Enterprise that may be set up for educational purposes, using a new method that I have just put together for that purpose, and I wanted to make sure that you are not talking about any new things, but certain kinds of

things covered by Federal law, because nonprofit law is quite liberal, as you well know, under the new revisions of that which cover a great deal of kinds of activities.

MR. COATES: The Committee is concerned that close to \$1 billion escapes -- that is, tax liability, not the value of property, but tax liability -- escapes in property tax payments that we might capture. It is the Committee's view that this provision will close that gap considerably, beyond that point where that loop is tightened, then, the legislature, acting with respect to any group -- nonprofit, educational, charitable -- will have to meet whatever criteria the legislature imposes within the inner, tightened circle of that loop. So that we would anticipate that even in the area where you identify the possibility of proliferation of organizations under the guise to enjoy tax benefit, that the legislature will make a searching scrutiny and take appropriate action. Now, there is a further response -- yes?

MS. SHELTON: I am trying to see what your guidance is. Is your guidance law or whatever the legislature was meaning by "nonprofit, educational" at that time?

MS. FREEMAN: As Delegate Coates said, it was a tough question for the Committee to go through. We really wanted to tighten the hole that you are referring to, and that is why

the original language before we amended was in there. The problem with that was that it really tightened it so much that it created two problems. One was probably, we really would, I mean, for all the discussion tonight, be heavily lobbied against for statehood on that one. All of Northeast Washington owned by the Catholic Church, just as an example, G.W., all sorts of institutions in the City. In addition to that, the Committee was concerned that we did not want to ruin, I guess, the quality of life in Washington by forcing out from Washington a number of different institutions which do, in fact, enhance the quality of life. The problem was trying to, on the one hand, restrict tax exemptions, but on the other hand, still allow those institutions which do benefit the quality of life in Washington to enable them to stay in the City.

So what we have done here is we have forbidden the granting of tax exemptions in certain situations -- for example we have forbidden the granting of tax exemptions to state property which is leased out for private or business use. Another example is that we will tax Federal lands as fully as we can under the Federal constitution.

What we have done, however, is we have left the situation of the property used exclusively for religious

purposes and property used for nonprofit, educational, and charitable purposes up to the legislature.

We could have, I suppose, defined those three items more fully, but at that point, one really does enter into the legislative arena. And so, we have left it to the legislature to deal with that. That legislature may, in fact, under this language decide not to grant exemptions to any of those three; it may well do that. It is doubtful. But in any case, the legislature can define those three institutions or areas and also define the level of taxation or non-taxation.

PRESIDENT CASSELL: All right. What is on the floor now is the amendment made by the Committee which inserts, after the word, "purposes", on line 5, "from nonprofit, educational, or charitable purposes", and then it would go on, "or as required by law".

Are there points that have not been made on this that must be made? Yes, Delegate Jordan?

MR. JORDAN: Yes. I'm still not clear -- maybe it wasn't clarified for me. Delegate Mason raised a question and so did Delegate Shelton, and I don't want to belabor the point. I just am not clear in terms of this, "required by Federal law", those institutions, number one. I want them spelled out, so I can understand what we are talking about.

Are we talking about Daughters of the American Revolution, Constitution Hall -- would that be exempt? That is an example. And the other is, when you say, "used exclusively for religious purposes or for nonprofit, educational...", let me give an example here. A few years ago, PEPCO functioned out of this building. They used this building. It is owned by them. George Washington University bought up some land on Pennsylvania Avenue that was a part of its plan for the school. They tore down buildings, they built up a building, and PEPCO left here and went there, to a property now that is tax-exempt, and they allowed a District government agency to move into this building that is taxable, and paid rent and everything else on it. And my question is, is that building that George Washington University has that is rented to the Potomac Electric Power Company going to be taxable, or is it going to be considered that it is part of the real property used exclusively for religious, nonprofit, educational purposes, and therefore tax-exempt?

If you would address those two, I am looking to see some specifics about what these agencies or entities are that were described by Federal law, like is the DAR one of those; and the other one is, are these buildings that are owned by these nonprofit or nonprofit educational institutions

that aren't being used exclusively for educational purposes going to be exempt?

PRESIDENT CASSELL: The Committee has the floor.

MR. COATES: I will ask Delegate Croft to respond.

MR. CROFT: Delegate Jordan, in answer to your first question, the example of DAR would be taxable if the state chose to tax it. The second example, where George Washington leases its property out to PEPCO, that would be taxable.

PRESIDENT CASSELL: Ladies and gentlemen, we have been on this section for a long time, now. There are people who want to speak now who have already spoken. I believe that this is an important issue. This is an issue that is heavily debated among people regarding tax exemptions, and the ability of some organizations to avoid that. I'm going to allow a little bit more discussion, but we are going to have to move on.

Delegate Shelton?

MS. SHELTON: Point of information. When would a motion to delete be in order?

PRESIDENT CASSELL: Any time.

MS. SHELTON: Thank you.

PRESIDENT CASSELL: I'm going to take four more



questions and then I think we need to go on. We've debated this at length. Oulahan, Jackson, Shelton, Moore.

Delegate Oulahan?

MR. OULAHAN: Mr. President --

PRESIDENT CASSELL: Delegate Feely, please calm down. I'll call on you next.

MR. OULAHAN: I've been standing for 15 minutes. Mr. President, I understand the Committee would like about a five-minute recess, and I'm giving them my time now to discuss the questions that have been raised. I'm very pleased to help them, because I'm the one that got them to change the law.

I'm doing this with this understanding, that after they make their statement, that I at least have the floor to make a little legislative history.

So I move for a five-minute recess.

MR. CROFT: Point of personal privilege.

Delegate Oulahan, as one of the members of this Committee, I think that the members of this Committee are capable themselves of asking for recesses, and I resent the fact that you look at yourself as the tutor of this Committee. You are not my tutor.

PRESIDENT CASSELL: There is a motion on the floor. Let us not entertain motions to recess --we don't want this



motion to die. Let us act on this motion and then we can recess.

MR. BARNES:: Point of personal privilege.

PRESIDENT CASSELL: Yes.

MR. BARNES: I asked the Committee how they felt about recessing, and I got, as I understand, a complete majority response. I asked Delegate Oulahan to do this so that we could have debate after the Committee came back from --

PRESIDENT CASSELL: On what issue? The motion that is on the floor?

MR. BARNES: Yes, on the tax exemptions of real estate.

PRESIDENT CASSELL: Well, the motion is on the floor. We are going to have to dispose of that some way or another.

MR. JACKSON: Point of order.

PRESIDENT CASSELL: Yes.

MR. JACKSON: I don't know whether the Committee will decide to recess, and I'm not sure of the merits of the recess, but it seems to me that if three people have questions, it would be in order for them to get the understanding of people's questions before we go to recess, so they will have some more information, more discussion.

PRESIDENT CASSELL: I would like not only to get the

questions answered, but I'd like to vote on this issue before we recess.

MR. JACKSON: As you said, this is a very sticky question.

PRESIDENT CASSELL: Well, then, you'd better stay here until we finish it. You will lose your momentum and everything else.

The motion on the floor is Delegate Coates' motion. Are there burning questions that need to be answered before we vote on that?

Delegates Jackson, Shelton.

MS. FEELY: Feely, Feely.

PRESIDENT CASSELL: Jackson -- Ms. Feely, I'm back to you.

MR. JACKSON: Mr. Chairman, I have some points I'd like to bring up.

PRESIDENT CASSELL: Okay. I had indicated to her I would call on her next. Delegate Feely?

MS. FEELY: The question that I wanted to raise has to do with not only the amendment, but also part of the report. You indicated in your report, with regard to the fourth point, "the state must tax church-owned property which is not used for religious purposes", and in your amendment you indicated

"nonprofit, charitable purposes". I want to know, does "nonprofit" modify "charitable purposes" -- that is the first question -- or, does "nonprofit" only modify "educational"? That's my first question.

MS. FREEMAN: I'll answer that. The view is, I think, that it is independent; it doesn't modify either of the separate categories.

MS. FEELY: Okay, so, then, "nonprofit, educational"

MS. FREEMAN: "Used exclusively for nonprofit, comma, educational, comma, charitable, comma, or religious purposes."

MS. FEELY: My second question is, are you saying, then, that a church that owns an apartment building would have that property taxed?

MR. COATES: It depends upon the use. If those apartment buildings are used for religious purposes -- under present D.C. law, if a church uses a facility in its service delivery -- if, for example, if provides homes for the homeless, and does it in an apartment building, that property would be exempt from property tax.

MS. FEELY: And that would continue on with this language?

MR. COATES: That is correct.

PRESIDENT CASSELL: Let me ask you this. Does that read, "for nonprofit, comma, educational, comma, or charitable purposes", and each of those stands alone? Any educational activity would be covered?

MR. COATES: I would think, sir, that nonprofit educational, nonprofit charitable, nonprofit scientific.

PRESIDENT CASSELL: I see. It may need to be clarified, then.

MR. COATES: These would all be cases of nonprofit corporations.

PRESIDENT CASSELL: Delegate Jackson, you have the floor again.

MR. JACKSON: Yes, I only take the floor again because I wasn't satisfied with the answer to my question. I understand the Committee has done quite a bit of our work. But the question comes down to this. Congress exempts 55 percent of the land in the District of Columbia; we get only 17 percent of the money back. And it seems to me that the pot is again going to those who were born with silver spoons in their mouths, instead of those like me, who were born with hammers in their hands. And I don't understand why that is.

Now, it seems to me, Mr. Chairman, when we open up the question of charitable organizations, that is neglected,

because that could mean exactly anything for charitable organizations, most of which are in. And I think the Committee, it seems to me, has some pretty tight language -- maybe a bit too tight; I understand certain problems with educational institutions and whatnot, especially Howard University and thingslike that -- but I don't understand why the Committee saw the necessity to open it up to so many things, which in fact does open it up to the Daughters of the American Revolution, National Guard, Veterans of Foreign Wars, and all those things to be able to say, "We are a charitable organization; we are nonprofit." But they do not serve the people of Washington, D.C. Why should I pay out dollars for them? That is what statehood is all about, it seems to me.

So maybe if the Committee, which has done such fine work, can explain this thing to me -- if it doesn't, then I will see fit to offer an amendment, which I would hate to do, but I don't see any way out of it.

PRESIDENT CASSELL: I'm going to ask for a reply to that.

MR. COATES: Delegate Freeman?

MS. FREEMAN: I think it really comes down to a choice of whether we want to trust the legislature to act in

the interests of the people of Washington, D.C. That is the way the language is, in fact, to leave that choice to the legislature.

PRESIDENT CASSELL: Delegate Shelton?

MS. SHELTON: While I recognize that the Committee has done considerable work in this area, I sense an unreadiness on the part of the Convention to act, and therefore, I have to make a motion to delete -- maybe because I think that the constitution has to set the stage for our intent to the legislators. While I do have a great deal of respect for them, I think we would be negligent of our responsibilities if we did not provide them guidance.

Therefore, I move to delete the new language of the Committee, which I understand says, "for nonprofit, comma, educational, comma, charitable, comma, or religious purposes." I move to delete that language.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the amended language offered by the Committee be deleted.

MR. COATES: In other words, Mr. President, the Shelton motion brings us back to the original language.

PRESIDENT CASSELL: Yes.

Mr. General Counsel is asked to speak on this before

we vote.

MR. THOMAS: Yes. First of all, to Delegate Shelton I'd like to say that I don't believe that the clause, "for nonprofit, educational, or charitable purposes" is "nonprofit, comma". I think it means "nonprofit educational, nonprofit charitable purposes".

MS. SHELTON: I was just going by the report that was given to me.

MR. THOMAS: I know, I know, but that is not the traditional way it is interpreted, and I think it is probably an oversight.

As far as this language, most of the questions most of you are asking are very specific questions which would ultimately be decided by the legislature. This is very standard language that they have put in here, and a lot of these questions -- I think as it is stated right here would be enough guidance. As far as specific instances to meet the concerns that most of you are worried about, the legislature would have to make those definitions.

I am concerned about the last four words on line 5, "as required by Federal law". I think that as written, it is sort of ambiguous, and I would hope that during the five-minute recess, I could work with the Committee to draft up some less

ambiguous language.

PRESIDENT CASSELL: What are those lines again, Mr. Thomas?

MR. THOMAS: "as required by Federal law."

PRESIDENT CASSELL: Delegate Mason?

MR. MASON: I would offer a substitute amendment to strike only the comma, if there is one, not the rest of the Committee's language, and after this has been acted upon, I may have another amendment to offer. But my substitute amendment -- my amendment to the amendment or substitute, whichever one chooses to call it -- is that there be no comma after "nonprofit", that it be understood that that modifies both "educational" and "charitable". We do not want to grant, even have the legislature grant, exemptions to proprietary schools like the business schools that are moneymaking propositions, but the nonprofit educational institutions should be --

PRESIDENT CASSELL: Would you restate your substitute motion, please, sir?

MR. MASON: Instead of striking any word, we strike only the comma which Delegate Freeman said was there. If there is a comma there, we strike it. Otherwise, the language remains as the Committee proposed.



PRESIDENT CASSELL: Is there a second to the motion to the amended motion?

(The motion was duly seconded.)

PRESIDENT CASSELL: Delegate Baldwin?

MR. BALDWIN: I have a point of clarification. I think that Delegate Jackson raised this about ten minutes ago. The General Counsel inserted the word, "nonprofit" prior to "educational", et cetera. Now, that is entirely different than just saying comma, comma, comma. The Committee or the maker of the original language, which in this case would be Ms. Freeman, has to decide once and for all, as Mr. Jackson asked, are we talking about "nonprofit", "religion nonprofit", "education nonprofit", "charity nonprofit" -- or are we talking about "religion, comma" -- just tell us whatever that is, because there is a vast difference.

PRESIDENT CASSELL: In the confusion, I guess we didn't hear what they did say, if that was their intent. The question is, is it clear in the wording.

MR. COATES: That is correct, sir. The intent is that "nonprofit" would be restrictive of "educational", of "charitable", and of "religious". Now, I understand the purpose of the Mason amendment is to make that clear, by deleting the comma following "nonprofit".

PRESIDENT CASSELL: Delegate Coates, would you be willing, in order not to extend this debate, to try to perfect that to make it say exactly what is meant, with the General Counsel during our recess?

MR. COATES: As I understand, Mr. President, the only question now that the General Counsel raises is that with respect to the phrase, "by Federal law", and proposes to work with the Committee --

MR. MASON: I am ready to offer an amendment that speaks to that, too. I will offer an amendment --

PRESIDENT CASSELL: What you've got now is, you have offered a substitute to the amendment -- was that your amendment, Delegate Mason?

MR. MASON: I offered a substitute to the Shelton amendment which merely struck the comma in the Committee's language, which Delegate Freeman had indicated was there. Delegate Coates indicates the comma isn't there; they removed the comma. The Committee has removed the comma, so that no longer becomes necessary. However, in the meantime, the General Counsel --

PRESIDENT CASSELL: As I understand, what you have to do is withdraw --

MR. MASON: I withdraw my amendment with relation

to the comma, since the Committee has removed the comma.

PRESIDENT CASSELL: I am sorry, sir. In the din, I couldn't hear you. I heard you say, "I withdraw".

MR. MASON: I withdraw my amendment that relates to the comma. At the suggestion of the General Counsel that "Federal law" needs to be clarified, I shall offer an amendment which speaks to that. My amendment is to strike the words, "Federal law", and insert "the Constitution of the United States". I think it should be clear that what we are speaking of is the things that we absolutely cannot tax because of the constitution. Those would include only Federal property and embassy property, insofar as I know.

(The motion was duly seconded.)

PRESIDENT CASSELL: Let the Chair decide whether that is germane to the Shelton amendment. It seeks to make the same clarification that Delegate Shelton wants to make, and therefore, I will rule that in order.

The substitute offered by Delegate Mason is that we strike "as required by Federal law" and change that to "by the United States Constitution". That received a second.

Discussion? Delegate Barnes?

MR. COATES: Just a point of correction, Mr. President. We are not striking "as required"; we are striking,

"Federal law" and inserting in lieu thereof "the Constitution of the United States".

PRESIDENT CASSELL: I thought I read that it would be "as required by this constitution".

MR. COATES: No, "the Constitution of the United States".

PRESIDENT CASSELL: All right. Will this make it clear, now?

MS. SHELTON: Point of information, sir. I think that the delegate wishes to amend the Committee proposal, because mine is a motion to delete that particular section, and what he has put in is perhaps rightfully so in terms of his intent, and that is to modify this to be more in compliance with the General Counsel. Mine was an intent to delete.

PRESIDENT CASSELL: Okay. Yours was the intent to delete the added verbage.

MS. SHELTON: Right, and I did not include that -- I don't know where we are, but I just wanted to make that clear.

PRESIDENT CASSELL: What I indicated was that I thought that he sought to do the same thing that yours did, and that is to clarify the intent of the language, even though what he wasn't doing was making an amendment to yours. Yours

is on the floor, and we have got to dispose of it one way. Rather than vote it up or down, what I'd like to do is to let another motion, if possible, accomplish the same clarification purpose.

Yes, Mr. Baldwin?

MR. BALDWIN: What we have -- and there again, we might just bend the rules and get out of this -- at this point, we have three specific amendments on the floor at one time, and we can never have more than two. So I think we just have to bear with you and at least get one of them out. The primary amendment was Delegate Freeman. She amended by inserting.

Delegate Shelton wanted to delete, which would then be what is called a secondary amendment. She was going to delete what Delegate Freeman said. Now, you've got that on the floor, and that's two.

Then, we have Delegate Mason, which can either be an amendment or a substitute, but you can never substitute for anything that is amended. And that is three separate things. We need to just go along with you and get at least one of them off the floor, and then we'll know exactly where we are.

PRESIDENT CASSELL: Thank you for that advice. What the Chair sees is that there are two amendments and a

substitute. The Chair understands that you can always substitute for an amendment.

MR. BALDWIN: No, you can never do that, Mr. President.

PRESIDENT CASSELL: Well, we've been doing that, now we've been making a mistake. My understand is that you can make a substitute for anything -- a substitute for an original motion, and a substitute for an amendment. It has never been challenged before. If it needs to be challenged, then perhaps we ought to clarify that.

Now, as you say, what we are trying to do is get past this. We are talking about line 5 which says, as it reads now, "exclusively for religious purposes or as required by Federal law". There is some question as to whether that protects sufficiently those legitimate nonprofit educational, charitable purposes. There is some question as to when you use that language, you are not allowing people to abuse that, and what we are trying to do is to get around that.

Now, Delegate Shelton has tried to clarify that by removing the commas. Delegate Mason has suggested that rather than do that -- okay. Shelton wanted to delete the amendment which says for "nonprofit, educational, and charitable purposes". Mason offered an amendment to that.

Well, that would, as Delegate Baldwin says, be a third amendme

So I guess I'll have to rule that out of order. Let us deal with Delegate Shelton's motion, and that is to delete, "for nonprofit, educational, charitable purposes". I guess that is the only way we can get that out of the way so we can get back on the floor.

MR. MASON: Point of order.

PRESIDENT CASSELL: Yes, your point?

MR. MASON: I think both the Shelton amendment and my amendment at this point are out of order. I think my amendment is not germane to the Freeman amendment, and Shelton's amendment accomplishes nothing that voting against the Freeman amendment wouldn't accomplish.

It seems to me the way to get out of the dilemma is to put the Freeman amendment on the floor, vote it up or down, then put mine on the floor, and vote it up or down. The Shelton amendment is nothing except negating the Freeman amendment.

MR. JACKSON: Point of order, Mr. Chairman.

PRESIDENT CASSELL: Well, we can make lots of points of order. Let's see if we can get out of it now. I think Delegate Mason may have a point. In other words, Delegate Shelton's amendment only carries us back to the



original wording anyway.

Let us vote Delegate Shelton's up or down, since it is on the floor, and then get back to it. Those in favor of Delegate Shelton's motion --

MR. JACKSON: Point of information. The point is that we do not know exactly what we are getting. We do not know what is meant by all these terms. If someone could define and tell us exactly what it meant, then I would know how to vote.

PRESIDENT CASSELL: I appreciate that we don't know, and people have tried to answer the question and have not answered it satisfactorily, at least to some people. But we have still got to get past this point, right? I don't think there is any point in people trying to explain again.

I'd like to have a vote on Delegate Shelton's motion, and that is to delete the amendment offered by Delegate Coates. Could we have a vote on that? Those in favor to delete, "in accordance with Delegate Shelton's motion, Delegate Coates' amendment, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?



(A show of hands.)

PRESIDENT CASSELL: Let me see some hands on that. Those in favor of the deletion, raise your hands, please. This is the 'Shelton amendment to delete, and what she is deleting, understand now, is the additional wording offered by Coates' amendment.

(A show of hands.)

MR. COOPER: Five.

MR. JACKSON: There's more than five.

PRESIDENT CASSELL: Delegate Cooper, I need a count.

MR. COOPER: Well, I need to see hands up.

PRESIDENT CASSELL: Please count. Let me count.

Twelve.

Those in favor of Delegate Shelton's motion, please keep them up, now.

(A show of hands.)

MR. COOPER: Nine.

PRESIDENT CASSELL: Let's try the opposed once more. Let the Secretary count; I counted the last time.

(A show of hands.)

MR. COOPER: Twelve.

PRESIDENT CASSELL: Those who abstain on that last motion, please. Any abstentions?

(A show of hands.)

MR. COOPER: One abstention.

PRESIDENT CASSELL: Now, having disposed of Delegate Shelton's motion, we are now back to line 5.

MR. COOPER: The Freeman amendment, as she stated it.

MR. COATES: Mr. President.

PRESIDENT CASSELL: Mr. Chairperson, we are now back to the Freeman amendment.

MR. COATES: Yes, sir. We are back to line 5, which in accordance with the Freeman amendment, would insert after "for", the following: "nonprofit, educational, charitable, religious purposes".

MR. COOPER: That's not the Freeman amendment.

MR. COATES: Yes, it is.

MR. COOPER: The Freeman amendment, as she stated it, was to insert after the first occurrence of the word, "or", on line 5, the words, "for nonprofit, educational, or charitable purposes or".

MR. COATES: The line as amended would read, beginning at the first part, "exclusively for religious purposes or nonprofit, educational, charitable purposes, or as required by Federal law." That is the entire line as

amended.

PRESIDENT CASSELL: Yes, Mr. Chairman?

MR. BARNES: Point of personal privilege.

PRESIDENT CASSELL: State your point of personal privilege, please.

MR. BARNES: Yes, when you called for hands in the audience, I was the next one.

PRESIDENT CASSELL: Well, I'll recognize you after his speech on this motion.

MR. COATES: Mr. Chairman, it would appear to me that the point of Counsel is well-taken, and before voting on the Freeman amendment, we ought to otherwise amend line 5 to strike "Federal law" and insert in lieu thereof "the Constitution of the United States".

PRESIDENT CASSELL: Please repeat that again.

MR. COATES: Since the point of Counsel is well-taken, to put the proposal in proper status for final disposal, or potentially final disposal, we ought to correct the ambiguity in the phrase, "Federal law", and strike that phrase, thus eliminating the ambiguity and insert therefor, "The Constitution of the United States".

(The motion was duly seconded.)

MR. COATES: I moved it, and I amend it.

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PRESIDENT CASSELL: A further amendment, that the phrase, "Federal law", be substituted with "the Constitution of the United States".

Discussion on that amendment?

Delegate Barnes?

MR. BARNES: Yes, I have a substitute amendment. What I'd like to do, after talking with General Counsel, is to clarify the ambiguity, to drop the phrase, "or as stated in the constitution or as stated by Federal law", completely, and just end the sentence with "purposes".

PRESIDENT CASSELL: That's a substitute motion. Is there a second for that?

(The motion was duly seconded.)

PRESIDENT CASSELL: Okay. We've got two amendments now and a substitute. That's as far as we can go.

Read back exactly what the substitute motion is, and if that substitution motion does not correctly read the language that is there and only make a substitution for what he wants to change, we're going to have to deal with that.

MS. SHELTON: Excuse me. I'm unclear about the Committee's intent. Can you restate? Are you talking about a constitution which says that you cannot tax certain kinds of property --

PRESIDENT CASSELL: Delegate Shelton, right now, we're dealing with a substitute for that, offered by Delegate Barnes. Now, read back to me what he said.

MR. COOPER: He said he wanted to substitute for language that is not even there.

MR. BARNES: No, I did not. I wanted to strike language, "as stated in the Constitution".

MR. COOPER: That's not here.

PRESIDENT CASSELL: Repeat that, so the Secretary can hear it correctly.

MR. BARNES: How I want the final text to read is, as stated by Delegate Freeman, and strike the phrase, "or as required", whatever is in there, delete it, and it will end before that phrase.

PRESIDENT CASSELL: Well, you'll have to read it so we know clearly.

MR. COOPER: You want to strike "or as required by Federal law", or in this case, "as required by the Constitution of the United States". You want to strike that.

MR. BARNES: Yes.

PRESIDENT CASSELL: So the way it will read is, "exclusively" on line 5, with the insertion that Delegate Freeman made -- I don't know the wording, it had to do with

nonprofit religion, and then "purposes for nonprofit" -- whatever -- Delegate Freeman, perhaps you ought to state yours again so we can see what it is he wants to substitute.

MS. FREEMAN: I don't think what I did is affected by what Delegate Barnes is doing, one way or the other. I did not change the last part of that line, although I agree with the suggestion by Delegate Mason that we ought to change the words, "Federal law" to "the Constitution of the United States".

PRESIDENT CASSELL: Give us the reading of your amendment now, so there is no question about it, on line 5.

MS. FREEMAN: "Used exclusively for nonprofit, educational, charitable, or religious purposes".

MR. COOPER: That's not what the original amendment says. We've already had an amendment to that and voted on it.

PRESIDENT CASSELL: Delegate Freeman, is that correctly stated, as you and Delegate Coates and the Committee would like to have it?

MR. BARNES: Mr. President, I apologize to the body. I would like to withdraw my motion and request a five-minute recess.

PRESIDENT CASSELL: Well, we've got to finish this motion. We've been trying to finish this section before we

recess. If we can do that, then we can recess.

MR. COATES: Mr. Chair, to recollect, the original Freeman amendment left "religious purposes" in the line where it is, so that originally, it read, "exclusively for religious purposes, or for nonprofit, educational, or charitable purposes, or as required by" -- but then we agreed on subsequent discussion that "nonprofit" was restrictive of not only religious, but of charitable and also education. So we agreed to restate her amendment in the manner that she stated it most recently. Reading that amendment, sir, that as it is presently before us, line 5 would read, "exclusively"

PRESIDENT CASSELL: Mr. Secretary, make sure we have this down.

MR. COOPER: Mr. President --

PRESIDENT CASSELL: The delegate has the floor, Mr. Secretary. I asked him to read, and I asked you to be sure to get it down as he has it. That's all I want from you.

MR. COOPER: But Mr. President --

PRESIDENT CASSELL: You are out of order.

MR. COOPER: Mr. President, it conflicts with what is on the transcribed record. If you want it amended, amend it. But I can only write down what is said. I do not read minds.

PRESIDENT CASSELL: Delegate Coates, would you read this, and Mr. Secretary, would you get accurately what he read this time.

MR. COOPER: Mr. President, I have a little problem

PRESIDENT CASSELL: I don't want to hear your problem.

Delegate Coates?

MR. COATES: The Freeman amendment by our agreement would alter line 5 to be read, "exclusively for nonprofit, religious, educational, or charitable purposes or as required by Federal law". That's line 5.

PRESIDENT CASSELL: Mr. Secretary, did you get that? Dr. Austin, did you get that?

MR. COOPER: Mr. President, I have for the record the proceedings of this Convention. That is what I have. That is what I always have had, and that is what I always will continue to have.

PRESIDENT CASSELL: Dr. Austin, were you able to record the reading as given by Mr. Coates?

MRS. MASON: Mr. President, point of order.

PRESIDENT CASSELL: Yes, state your point of order.

MRS. MASON: We have a transcriber right here who takes it verbatim. She can read back to us what we have put



on the floor.

MR. COOPER: That's right.

PRESIDENT CASSELL: Delegate Mason, I think we can be as technical as we want. I think what we are trying to find out is what Delegate Coates and Ms. Freeman mean. I would not hold them -- being given to making mistakes, and being confused and making all kinds of fluffs, I wouldn't want you to go back and find out what I actually said.

Delegate Coates has restated what he means. Therefore, I would like for somebody to take that down. Now, I think she has made a good point.

Would the Court Reporter read back to us the last statement made to us by Delegate Coates?

COURT REPORTER: "The Freeman amendment by our agreement would alter line 5 to read, 'exclusively for nonprofit, religious, educational, or charitable purposes or as required by Federal law'."

PRESIDENT CASSELL: Well, that isn't what he said the last time, because he didn't say "as required by Federal law".

MR. BARNES: Yes, he did.

PRESIDENT CASSELL: All right. Thank you.

MR. COATES: Thank you.

PRESIDENT CASSELL: Could we get the people back in from the hall, now? I hope we can get by this.

Would you like to withdraw whatever it was you said and give us something new, simple and clear, over which there will be no debate as to what you said?

There was a motion on the floor. Delegate Coates has withdrawn that motion and is going to try give us something now which is very clear and concise.

Delegate Coates?

MR. COATES: Thank you, Mr. President.

I wished a few moments ago, I had a gavel, sir, because you reminded me of the story of a situation where a speaker was designated to speak for some ten minutes, but he went beyond his ten minutes, twenty, thirty minutes, and forty. The presiding officer looked at the time allotted and saw the speaker was messing up the program assignments, so he picked up the gavel and drew it back and threw it at the speaker. Well, of course, he was angry, and in his anger, his aim was bad, and he missed the speaker. The gavel went end over end and hit the guy in the first seat on the top of his head. It was a heavy blow, and when he fell out of his seat, the last thing he was heard to say was, "Hit me again. I can still hear him speaking."

(Laughter.)

MR. COATES: I wish I had your gavel, sir.

PRESIDENT CASSELL: Well, we want to hear you speak but not for very long.

MR. COATES: All right. It is the Committee position, sir, to amend the paragraph entitled, "Tax Exemptions - Real Estate" as follows on line 5, so that line 5 as amended would read, "exclusively for nonprofit, religious, educational, or charitable purposes or as required by the Constitution of the United States".

Now, the Committee takes that position, sir, because this would allow legislative --

PRESIDENT CASSELL: Was there a second to that?

(The motion was duly seconded.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: This would allow legislative action to close to the extent allowed by the U.S. Constitution the loop of property tax exemptions around that list of organizations included under Title 47, which is inclusive of DAR and some others which have been mentioned in our debate, as well as others not included in Title 47, but which are not also included in the U.S. Constitution. It is the feeling of the Committee that this is the optimal arrangement providing for

a solution by this Convention to the great problem posed by the loss of revenues because of exemptions, period.

PRESIDENT CASSELL: Discussion? Kamany?

MR. KAMENY: A question. Is there in fact that you know of -- and if so, please tell me -- anything in the Constitution of the United States that is applicable here? I know of nothing, but perhaps others do.

MR. COATES: I defer to Delegate Mason or to General Counsel.

MR. MASON: The Constitution does not permit a state to tax Federal property or property of embassies. So far as I know, these are the only things that are constitutionally outlawed as far as taxation is concerned by a state. If anybody knows of anything else, tell me, but I know of nothing.

PRESIDENT CASSELL: Delegate Street?

MS. STREET: Point of information. When you list these nonprofit types of organizations, are you keeping in mind that many nonprofit organizations are cultural, literary, and scientific, and they are non-taxable? How do we cover that category? Are you only mentioning educational, charitable and religious?

MR. COATES: Many of them have in the bylaws under

which they are incorporated a list of activities so that many which are known to us as scientific also have in their bylaws the reference to being educational. So that the loop that we close here, in most cases, I submit, would permit some of those two enjoy continued exemptions if it is deemed so in the view of the legislature.

MS.. STREET: Not all of them. You are excluding those others that I have mentioned.

MR. COATES: Any which are not, by the statement of their purpose, including religious, educational, or charitable.

MS. STREET: I think we're going to get into a lot of trouble. I think we are in an area we really should not be dealing in. We should not mention any -- leave it to the legislature and cut this off, because I think we are going to get into a lot of trouble.

PRESIDENT CASSELL: Are you saying that there are other kinds of nonprofit activities that are being left out?

MS. STREET: There are all kinds of nonprofit organizations. There are cultural, scientific, and religious, and --

PRESIDENT CASSELL: And that are now tax-exempt?

MS. STREET: -- and are tax-exempt, and enjoy that

status.

PRESIDENT CASSELL: Delegate Schrag?

MR. SCHRAG: I am very glad that Delegate Street ha just brought up that point, because it is something that has been bothering me for the last half hour as I have listened to this debate. Currently, D.C. law, Section 801(a), exempts for example poor people's cooperatives, cooperative housing. Certain cooperative housing for poor people and low and moderate income people is tax-exempt. It is not religious, it is not charitable, it is not educational. And I think this proposal would deny that tax exemption from cooperatives. What about consumer cooperatives. Suppose a consumer cooperative owns a building, in which it is able to sell lowcost to its benefits, such as the coop in Berkeley, California. Now, that is going to be denied a tax exemption under this provision, as I understand.

What about nonprofit cemeteries that are not attached to churches? They are not religious, they are not charitable, they are not educational.

What about public interest law firms such as challenged Secretary Watt's efforts to take away our environmental resources?

Now, if the Committee has any concerns about

exactly what Delegate Street is talking about, a whole raft of public concerns, nonprofit operations, that don't quite fit these very narrow definitions that the Committee has given us, then I would be much relieved. But I am worried about this section as it is presently being written.

PRESIDENT CASSELL: Delegate Croft?

MR. CROFT: Yes, I think that Delegate Schrag has raised a value question. It is a question of value. The question is that what we have said in this statement here is fundamentally no different than what is said in most state constitutions. What we tried to do in the first statement is have an indeed tighter statement than what has gone in most state constitutions. But again, we come to the value question. The value question is this. Currently, there is only one city in the United States that has more property off of the tax roll than Washington, D.C., and that is Boston. Now, the question is, do we want to continue that kind of pattern when we become a state. And I think we have to make a basic value choice. The value choice is, indeed, do we want to create a definition of tax exemption that would indeed allow most things to just put the name "literary" in front of them, "cultural" in front of them, "charitable" in front of them, and be tax exempt. And I think that comes down to the value



choice.

Yes, Delegate Schrag, you have your favorite charities, and somebody else has his favorite charities, and the list can go on and on and on and on and on.

Now, to say that you leave it to the legislature gives them no guidance, and we know how that is settled. And what we are saying is -- other questions, people have said if you try to meet certain people's needs, you will bankrupt the state. Well, we can indeed bankrupt the state if we indeed deny certain revenues to the state. And we must look at this. Unless there is a major economic change within the new state -- a major economic change in its structure, in the structure of this state's economy, then unlike most other states, this state will have to have an extreme reliance on property taxes, because this state's economic structure, unless it fundamentally changes, will be the same as the one now, and it is indeed an extremely narrow tax base. It is an extremely narrow tax base, and one of the things that makes it even narrower is the amount of property that is tax-exempt. As far as I am concerned, I think that -- I don't think we should be prepared to say "charitable purposes" and leave it at that, because what that would mean essentially is that you and I get together, we set up a corporation, we call it a charity, and

we go out and we buy apartment building, and we lease it out and we make big bucks. You and I say something is a condo, and we make big bucks, or a cooperative, and we make big bucks off it. You know, this state has to have a tax base, and we cannot narrow it any further than we have narrowed it now.

PRESIDENT CASSELL: I think we have heard both sides of this question. Did I hear somebody call for the question?

MR. COATES: Question.

(The motion was duly seconded.)

PRESIDENT CASSELL: Those in favor of cutting off debate, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The amendment on the floor is the amendment as read by Delegate Coates. Those in favor of that amendment, please signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nays.)

PRESIDENT CASSELL: Abstaining?

(No response.)

PRESIDENT CASSELL: The amendment carries.

We are back to the "Tax Exemption - Real Estate" motion as amended.

Discussion? Delegate Schrag?

MR. SCHRAG: I won't talk long. I'll just say that I am troubled for the reasons that I have expressed in the questions that I raised in the last amendment. And I think that we haven't really had adequate answer from the Committee. The Committee tells us that we have to have a fundamental structural change, and I may be ready to agree with that, but the question is, who is going to make these detailed decisions about which kinds of categories are in and which are out.

I think Delegate Street has raised incredibly valuable questions for us to listen to -- literary and artistic and scientific associations, and things like that. MAYbe they are charitable, maybe they are not. These questions need greater definition. Cooperative associatiOR needs greater definition. The legislature is precisely the place to deal with this.

By voting "no" on this section, we will do ourselves no harm, because it will still be up to the legislature

to deny these tax exemptions if they should be denied, and we have a people's legislature-- we have 40 single member districts -- and we have got initiative, we have got referendum, we have got a lot of people's control over the new state. And I think we should leave those future legislators and those future citizens of the state the right and power to make some of these definitional decisions.

I think the temperature is too hot in here, the debate too short, for us to be able to make the very careful calculations that we need to do with this section to know whether we aren't hurting the very interests that we are seeking to represent, such as poor people need cooperative housing.

PRESIDENT CASSELL: Delegate Schrag, let me ask you to stop now. You were going to be brief, and I think many of these things have been said.

Those in favor of the "Tax Exemption - Real Estate" -- Delegate Mason?

MRS. MASON: I'd like to ask the Committee how many other states have a tax exemption provision such as this one?

MR. CROFT: Read the language.

MRS. MASON: It says, "The taxing power shall be reserved to the state except so much thereof as may be

delegated by the legislature to the political subdivisions and except that all functions, powers and duties related to the taxation of real property shall be exercised exclusively by the counties, with the exception of the County of (inaudible). The legislature will have the power to apportion state revenues among the several political subdivisions." That's all it says.

PRESIDENT CASSELL: All right, that is the response to that question. May we vote, ladies and gentlemen?

Those in favor of the section, please indicate by raising your hands. That is, the section as amended.

(A show of hands.)

MR. COOPER: Eleven.

PRESIDENT CASSELL: Those opposed?

(A show of hands.)

MR. COOPER: Nine.

MR. SCHRAG: May I have a roll call vote, Mr. President.

PRESIDENT CASSELL: Mr. Secretary, please call the roll quickly.

(The Secretary called the roll as follows:

MR. COOPER: Delegate Johnson, No Response; Delegate Jones, Pass; Delegate Jordan, No response; Delegate

Kameny, No Response; Delegate Lockridge, No Response; Delegate Long, No; Delegate Love, No Response; Delegate Maguire, No Response; Delegate Marcus, No Response; Delegate Charles Mason, Yes; Delegate Hilda Mason, No; Delegate Brian Moore, Pass; Delegate Jerry Moore, No Response; Delegate Talmadge Moore; Pass; Delegate Nahikian, No Response; Delegate Nixon, Pass; Delegate Oulahan, No Response; Delegate Paramore, No Response; Delegate Robinson, No Response; Delegate Rothschild, No; Delegate Schrag, No; Delegate Shelton, No; Delegate Simmons, No Response; Delegate Street, No; Delegate Terrell, No Response; Delegate Thomas, No; Delegate Warren, No Response; Delegate Baldwin, No; Delegate Barnes, Yes; Delegate Blount, No Response; Delegate Bruning, Yes; Delegate Clarke, No Response; Delegate Coates, Yes; Delegate Cooper, yes; Delegate Corn, No Response; Delegate Croft, Yes; Delegate Eichorn, No Response; Delegate Feely, No Response; Delegate Freeman, Yes; Delegate Garner, No Response; Delegate Graham, Pass; Delegate Harris, No Response; Delegate Holmes, Yes; Delegate Jackson, Yes; Delegate Jones, Yes; Delegate Brian Moore, Abstain; Delegate Talmadge Moore, No; Delegate Graham, Yes; Delegate Cassell, No.

MR. KAMENY: Mr. Chairman, I was skipped.

MR. COOPER: You were not skipped. If you read the

transcript, you will see your name was called, and you did not answer the roll. I called all the names.

MS. FEELY: Delegate Feely was skipped.

MR. COOPER: Delegate Feely can have entered into the record how she would have voted if present.

PRESIDENT CASSELL: Mr. Secretary, would you please record the vote as indicated from the floor?

MS. FEELY: Yes.

PRESIDENT CASSELL: Anybody whose name was not called, or anybody who did not hear his name called, indicate how you want your vote recorded, and that will influence the vote.

MR. COOPER: Would you like the roll call over, because everyone's name was called in turn.

PRESIDENT CASSELL: No, Mr. Secretary. Is there anybody here now whose name was not called?

MR. JORDAN: I don't know if my name was called, Mr. Chairman --

PRESIDENT CASSELL: Is there anybody here who has not had his vote recorded?

MR. KAMENY: I have not.

PRESIDENT CASSELL: Mr. Kameny, how do you vote?

MR. KAMENY: I vote yes.



PRESIDENT CASSELL: Mr. Secretary, would you record that?

Anybody else? Mr. Jordan?

MR. JORDAN: Yes.

PRESIDENT CASSELL: What is your vote?

MR. JORDAN: My vote is yes.

PRESIDENT CASSELL: Mr. Secretary, would you record that.

Anybody else?

MS. FEELY: Did he record Feely voted yes?

MR. COOPER: Feely didn't answer the roll.

PRESIDENT CASSELL: Ms. Feely, what is your vote?

MS. FEELY: Yes.

PRESIDENT CASSELL: Mr. Secretary, please record that.

What is the result, Mr. Secretary? While we are waiting for the count, Delegate Jordan?

MR. JORDAN: Yes, Mr. Chairman, Section 4.2 of our rules states, "Any delegate may vote on a roll call vote until such time as the President announces the results." There is nothing in our rules that prohibits a delegate from voting if they were missed or anything else.

PRESIDENT CASSELL: Thank you, sir. That is not at

issue.

MS. SHELTON: Mr. Chair, I wish you would instruct the Secretary to follow instruction of the Convention. I recognize that he is an individual, but we are a body, and I wish that he would follow instructions that the Convention has pointed out in the rules.

PRESIDENT CASSELL: Thank you. The Chair has done that on previous occasions, and I think that since that appears to be the will of the body, the point will be well-taken.

Mr. Secretary, what is the count?

MR. COOPER: Mr. President, the count stands 14 in favor, 10 not in favor, and 1 abstaining.

PRESIDENT CASSELL: The count, according to the Secretary, is 14 in favor of the adoption of the tax exemption as amended, 10 against, and one abstaining.

MR. COOPER: Nine delegates are absent.

PRESIDENT CASSELL: All right. The section is adopted.

The Chair will entertain a motion to recess until tomorrow. Is that clear, until tomorrow.

MR. BALDWIN: Mr. Chairman, I would just like to speak to this. If we could complete this article tonight, we

will have completed six and one-third articles. We will only need three and two-third articles. And we have got one that would be ready Thursday night. Tomorrow night, we're going to have a problem, because, unless you suspend this 3-day rule, the only thing we will be able to deal with the next two nights would be the second reading of one article and completing the two articles on local government and education has only seven pages.

I think that by the close of business Thursday night, we will have completed all of our first readings, and we would have this possibility, with the exception of Rights. Therefore, there are 25 people on the floor now. If 23 will agree to stay another hour, I think we can knock it out. If those two or whatever have to leave, they can leave, but I think that we could do that.

PRESIDENT CASSELL: All right. Now, if we can get agreement -- people are beginning to leave -- if we can get agreement that 23 people will stay, we will continue.

(A show of hands.)

PRESIDENT CASSELL: Twenty-three people have agreed to stay until we finish this Article, until 11:00, but we do have to leave at 11:00.

There is a motion on the floor to adjourn; can we

move to have that motion withdrawn?

MR. KAMENY: I move to rescind the motion recess.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that we rescind. Can we get a two-thirds vote on that. Those in favor, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: It sounds like two-thirds to me.

Delegate Schrag?

MR. SCHRAG: I just have a point of information. I notice that Delegate Baldwin said that aside from the one second reading, we weren't quite ready for tomorrow. I think I recall that Health, Housing and Human Services circulated their draft last week, and I wonder whether they wouldn't be ready by tomorrow?

MR. BALDWIN: They are not ready. My reporting was correct.

PRESIDENT: CASSELL: Well, there is Suffrage, which is ready for second reading.

MR. KAMENY: And Judiciary and Preamble are ready

for second reading.

PRESIDENT CASSELL: Judiciary and Preamble.

MR. SCHRAG: But those two together would probably take only an hour to amend those second readings. So I wonder if there isn't a way to get somebody else ready for first reading tomorrow?

MR. BALDWIN: We're going to have difficulty Tuesday night and Wednesday night, unless we suspend the rules and allow Education, instead of three days, two days, so we'll have Education out of our hands in two days. Other than that, the earliest we can hear Education will be Thursday night. The status of Education is that six out of the nine Committee members have signed off. What is needed is three signatures from the at-large delegate, the delegate from Number 1 and I think from maybe Number 7. So it is just three more, and then we could go over it Thursday night, if you agree to that tonight, and I think we should because if six out of the nine have signed off, then we could just say let's accept that and make that Committee ready Thursday night. I don't think that should require a lot of argument and debate.

MR. SCHRAG: I understand that, Mr. Baldwin, but I am concerned about Tuesday and Wednesday, and I wonder whether there is any way that this body, by suspension of

the rules or otherwise, could get Health, Housing, and Human Services ready for tomorrow.

MR. BALDWIN: I talked with Ms. Paramore, and the answer is "No". The only two things this body can deal with Tuesday night and Wednesday night would be, number one, it can complete the two articles on Local Government; number two, it can deal with the Preamble, the second reading, and the second reading of Judiciary.

MR. COOPER: Mr. Vice President, no proposals for second readings have been submitted to the President for his signature yet.

MR. BALDWIN: Well, they've got the Judiciary tonight.

MR. COOPER: No, they have not been submitted to the President.

MR. BALDWIN: Well, the President can accept that as it is. He got it to second reading --

PRESIDENT CASSELL: I don't have any problem with that.

MR. BALDWIN: The President says he is ready to sign off on Judiciary; he has no problem with that.

PRESIDENT CASSELL: I think we'd better move on.

Mr. Coates?

MR. COATES: Mr. President, I move the exemption of the paragraph beginning at line 10 on page 7, designated "Tax Bills", and beginning with the words, "No tax shall be levied".

(The motion was duly seconded.)

PRESIDENT CASSELL: Delegate Coates, you mean to delete certain lines? When you say "exempt", do you mean to delete or exempt from consideration? I guess that means the same thing.

MR. COATES: I'm not following the Chair, sir.

PRESIDENT CASSELL: You said "exempt" did you mean you wanted to delete certain lines or certain portions?

MR. COATES: No. I move to adopt.

PRESIDENT CASSELL: Oh. You said "exempt".

MR. COATES: I'm sorry.

PRESIDENT CASSELL: Let's have that again, now.

MR. COATES: Mr. President, I move the adoption of the paragraph beginning with line 10 on page 7, captioned, "Tax Bills", beginning with the words, "No tax shall be levied"

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that "Tax Bills", line 10, be adopted.

Discussion? Delegate Schrag?



MR. SCHRAG: I just have a question, Mr. Chairman, and I am not moving an amendment, but I would like to hear the Committee's response to Delegate Oulahan's statement that he distributed in writing, in which he says that the sense of this would be a bad idea, because the tax bill imposed on the energy taxes would not include a tax credit for homeowners if they expect to cut down energy through solar. He says the legislature will have more leeway than that set forth in the second section to serve the citizens of the state. I know that it is common in Federal law for a very complicated bill, such as an energy bill, to have all kinds of different provisions in it -- conservation for (inaudible), and for example, an excess profits tax tacked onto it to finance these new programs. But I gather that would be impossible under this provision.

What is your answer to that?

MR. COATES: I'd like Delegate Barnes to respond in behalf of the Committee.

The answer to the question, Delegate Schrag, is yes. The Committee felt that two problems occur when matters are comingled in bills. One is the hiding of certain tax matters from public scrutiny by submerging them in legislation. The other is the idea of insulating a controversial item from

veto by merging it from some other matter of such wide support and urgency for adoption that it carries with it something which in itself could not be adopted.

So the Committee considered those matters, and in its considered opinion, takes the strong stand.

MR. SCHRAG: Thank you.

PRESIDENT CASSELL: Further discussion?

Delegate Mason?

MR. MASON: I rise to ask whether this provision would do the following things. Does this prevent the real estate tax having any partial exemption for homeowners? In other words, can you distinguish between homeowners and other matters of housing? That is really not related to the necessity for raising taxes. It is related to our desire to shift the burden away from homeowners onto businesses or something of that sort.

Does this forbid the law requiring automobile licenses and automobile registrations from specifying how much you will pay for them, which in turn is really a tax, but it is tacked onto the thing that requires you to get the license. Does this forbid any other piece of legislation which is primarily for one purpose, but includes an amount that somebody has to pay -- whether you call it a fee or a

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charge for water, for instance, maybe legislation providing for water, but you say people have to pay for it, so much per gallon, or per hundred thousand cubic feet or whatnot. I just want to know whether those things are considered taxes which cannot be included along with anything else, or whether they are not.

MR. COATES: Delegate Croft?

MR. CROFT: A simple answer: No, it does not. It does not, Delegate Mason.

PRESIDENT CASSELL: Further discussion on "Tax Bills".

MR. COATES: Mr. President, I move the adoption.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that "Tax Bills" be adopted as written. Those in favor, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion carries.

Delegate Coates?

MR. COATES: Mr. President, continuing on to page 8, I move the adoption of the section designated, "Earmarking", beginning on line 1 and ending on line 4, and once the main motion is seconded, I'd like to offer an amendment with respect.

PRESIDENT CASSELL: Do you mean ending on line 5?

MR. COATES: Yes, line 5. It should be ending on line 4.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that that paragraph, running from lines 1 to 5, be adopted.

Discussion? Mr. Coates?

MR. COATES: The Committee is grateful to those delegates who shared comments, both in writing and verbally to the Committee, and I take the time to express that thanks, because they have come to the last of some three or four shared with the Committee by Delegate Schrag. It is to incorporate his comment in the section following the word, "compacts", to insert "or as needed to secure authorized debts," and then continuing as initially read. This would allow an exception to earmarking in the sense that revenues could be designated to repay debt. If we allow this exception, it assures that our debt rating will remain competitive, giving

a constitutional guarantee supportive of the good faith and credit of the new state.

PRESIDENT CASSELL: Further discussion.

Delegate Long?

MR. LONG: I'm wondering whether the last phrase in here, "for longer than two fiscal periods", does anything effectively? It looks like on an annual basis, the legislature could extend the period for earmarking for purposes other than those designated in the beginning phrases, so that we could be perpetuating. Am I correct or not?

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Delegate Barnes or Delegate Bruning?

PRESIDENT CASSELL: I'm not clear. Is there a motion on the floor now? It has to have a second, or else we're not debating anything. Somebody did second it.

MR. COATES: The amendment to earmark.

PRESIDENT CASSELL: Yes.

MR. COATES: Yes, it was seconded.

MR. BARNES: The idea of the Committee was, on the one hand, we were thinking about prohibiting earmarking altogether, but we realized that that was too restrictive. What we decided upon was a sunset provision, basically, that earmarking can be done, but that law would expire within two

fiscal periods and must be voted upon again by the legislature. What we don't want is a proliferation of earmarking provisions such that our revenues are so dedicated that the Executive has very little flexibility.

MR. LONG: Apparently, we have to depend upon the legislative history for that interpretation.

PRESIDENT CASSELL: Further discussion?

(No response.)

PRESIDENT CASSELL: Okay. The motion on the floor is to adopt the section on earmarking as amended. Those in favor of the amendment, and that is to insert after "compacts" "or as needed to secure authorized debts", please indicate by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Okay. The amended motion, now. Those in favor of the amended motion, please indicate by saying yes.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion carries.

Delegates, the motion just carried. I don't know how many people were listening. You probably want to listen to the next one, though. We do have 23 people, but those 23 people really should be participating.

Delegate Coates?

MR. COATES: Mr. President, I move, whereas the legislative post-audit has been adopted in the article on the Legislature in Section 18, and meets all of the provisions that we incorporate, in addition to others which it provides, that we delete the section on page 8, beginning at line 6, designated "Legislative Post-Audit" and ending on line 11.

(The motion was duly seconded.)

PRESIDENT CASSELL: The Committee moves the deletion of the Section on "Legislative Post-Audit."

Discussion?

MR. COOPER: Yes, Mr. President. We are deleting something that is not before us yet. What we have to do is jump over the section and not move to adopt it. It's not even before us. The motion to delete is out of order.



PRESIDENT CASSELL: Further discussion?

MR. COATES: Question.

PRESIDENT CASSELL: The question has been called. Those in favor of cutting off debate, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Those in favor of the section as amended, signify by saying aye.

MR. COATES: It was deleted -- we need to delete it from our report, sir, because it is in order after we have worked through each section to entertain a motion to adopt the report, and so we must delete it. But we cannot skip over it.

PRESIDENT CASSELL: I'm sorry. Those in favor of deleting this from the report, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Okay. You had it before you, you were prepared to vote on it, up or down, so it is proper to vote on deleting it.

Okay, Delegate Coates.

MR. COATES: Mr. President, I move the adoption of the paragraph entitled, "Limitations on Appropriations", beginning at line 13 and continuing on to page 9, ending at line 7.

(The motion was duly seconded.)

PRESIDENT CASSELL: Moved and seconded that the section on "Limitations" be adopted.

Delegate Baldwin?

MR. BALDWIN: Mr. President, this section deals with limitations, and I can read this into the record. We also have Education, and they are identical.

MR. COOPER: Education is not before us.

MR. BALDWIN: I know it is not before us --

PRESIDENT CASSELL: Please continue, Delegate Baldwin.

MR. BALDWIN: Thank you, Mr. Chairman.

The one in this particular Committee is "Limitations and it reads, "No appropriation shall ever be made from any public fund in aid of any religious creed, church," and so on. You have read that one. In education, we have this

language. It is called, "Restrictions on Financing of Education. The State shall provide no financial support, either directly or indirectly, to any sectarian, denominational, or religious school, or to any pre-elementary, elementary, secondary, or post-secondary school which is not owned and exclusively controlled by the state."

To me, as I interpret this, it seems to be identical and I was just wondering if these Committees could get together on this, and we can either table this one or whatever.

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Delegate Freeman will respond.

MS. FREEMAN: Well, I serve on both Committees, and I was aware that there was some duplication in the beginning. However, the latter part, on page 9, starting halfway through line 3, "nor shall any grant or donation of personal property or real estate every be made by the state or any of its political subdivisions for any religious creed, church, or sectarian purpose whatever" -- that is broader than the limitations section of the Education Committee, which deals only with schools and educational institutions. This would forbid the state from granting any financial benefit to any institution, to any religious institution, whether or not it is used for an educational purpose.

MR. BALDWIN: Do you disagree (inaudible) --

MS. FREEMAN: No. I had agreed, Delegate Baldwin, that the first part of our section on limitations is in fact a duplication, which I think Style and Drafting will have to deal with. But the latter part of it is not; it deals with a new area, which is not simply forbidding state assistance to church schools, but to churches period, in essence. That is the difference.

PRESIDENT CASSELL: Delegate Kameny?

MR. KAMENY: Yes. The section overlap is narrow, and it is in the middle of the section before us. From the middle of line 1 on page 9, from the word, "for", to the word, "whatever", on line 4, it looks like, the middle of line 4 -- just that area. The section before and the section after do not overlap with what is done in Education. Now, the overlap is not to my perceptions an inconsistency, although there are some differences in wording. My suggestion would be that we continue with this section on its merits and let Style and Drafting take care of what is an overlap and not an inconsistency. Therefore, they need not come back to us with it; they need merely work it out so the substance appears only once in the constitution, and that is all that needs be done. So that I do not think we need to pursue the possible

overlap any further at expense of our time this evening.

PRESIDENT CASSELL: Delegate Mason?

MR. MASON: What I was going to say is quite similar to what Mr. Kameny said. Even though there may be some partial overlapping, we do not yet have the document before us with which it might overlap. I think it would be best to deal with this on its merit; then, when we get the other one, we'll decide whether to eliminate something that is repetitious of this. But we can't decide what to do with this on the basis of a document that all of us don't yet have, and I think that we should just proceed on the merits on this one.

PRESIDENT CASSELL: Delegate Schrag?

MR. SCHRAG: Mr. President, I rise to offer an amendment on line 4, after the word, "whatever", page 9 line 4. My amendment would add the words, "unless earmarked for a program of public service". That is after the word, "whatever," on line 4. "unless earmarked for a program of public service,".

(The motion was duly seconded.)

MR. SCHRAG: The purpose of this amendment, Mr. President, is that there are numerous schools in the District of Columbia that are owned or operated by religious institutions which offer programs of public service to the wider public, such

as medical clinics or legal clinics, and some of these receive some funds from the public. My own institution, Georgetown University, for example, has a program called "The Street Law Institute", in which law students go out and teach in the City's public schools, and this receives some appropriations from the District of Columbia which are funnelled through an organization that technically is owned by a religious order, but in which the religious order has no actual influence in the curriculum of that street law program. So that is the purpose of my amendment.

It would add the words, "unless earmarked for a program of public service," on line 4.

(The motion was duly seconded.)

PRESIDENT CASSELL: Delegate Jones?

MS. JONES: I'd like to rise on a point of information. Will Delegate Schrag's amendment take care of the fact that religious institutions that own schools, own and operate schools, and indeed, their students use school tokens, receive free lunch, Title I students go to those schools -- will this give them the right to continue that?

PRESIDENT CASSELL: To whom was that question addressed -- Delggate Schrag?

MS. JONES: No, school tokens -- I beg your pardon,

delegates, but my daughter buys school tokens every day --

PRESIDENT CASSELL: All right. The delegate's question is addressed through the Chair to the maker of the motion.

MS. JONES: I want to know will his amendment take care of that.

PRESIDENT CASSELL: Let's get an opinion from the General Counsel.

MS. JONES: School tokens is not a Federal program. It is a District program.

MR. SCHRAG: But Delegate Jones, my amendment doesn't go to that at all. That is, my amendment would simply permit the state to provide an organization of this type with funds, provided that those funds were used for a wider public service, for a wider community, not just for the schools.

Now, I think what you are concerned about is a somewhat different subject, and I think it might be worthy of another amendment, but I don't understand how the question relates to my amendment. It may relate to the Committee's proposal.

MS. JONES: Well, I think that when children who come from families who are supported by the public dole come there free, and must have free lunch, that is for the good of



the wider public, and these children must have transportation, they must have free lunch, they must have a lot of things. And what I want to know is will this exempt these schools, would it give them the right to continue this?

PRESIDENT CASSELL: Delegate Mason?

MR. MASON: I can speak to one of the points that Delegate Jones mentioned, and that has to do with the transportation. The law which provides for a reduced fare for school students -- not matter what school they go to -- is a law related to transit, not to schools. If the tokens are sold by the Transit Authority to the school, that has nothing to do with the school. The money does not go to the school; the school only certifies that this person is a student and lives in the District of Columbia, and is not more than 19 years old. So the money does not go to the school, so I don't think this provision would prevent our charging a reduced transit rate for students, just as we do to senior citizens.

MS. JONES: What about free lunch?

MR. MASON: The lunch matter is a different matter. I am not speaking to that. But as far as the transportation is concerned --

PRESIDENT CASSELL: What the provision or the amendment does is to allow the City to make contributions, or

allow the state to make contributions to organizations that are considered to provide a wider public service. It is not limiting that to be interpreted in any way. I am just wondering if Delegate Jones' question was totally answered.

Delegate Jackson?

MR. JACKSON: Just a brief question to the maker of the motion. Does this mean "public purpose" declared by the school or declared by the state?

MR. SCHRAG: I would think this would mean "public purpose" as declared by the state, and as in the normal course of things, the agency administering the funds would have rules and regulations promulgated pursuant to law that would define what "public purposes" were.

MR. JACKSON: Is that what the Chairman of the Committee understands it to mean?

MR. COATES: Yes, sir.

MR. JACKSON: Thank you.

PRESIDENT CASSELL: Further discussion?

Delegate Moore?

MR. T. MOORE: Yes, I wanted to rise to support the Schrag amendment, because I am quite familiar with that program. I feel that it is conducive to the intellectual pursuits of the students, so I support him on that amendment.

PRESIDENT CASSELL: Delegate Jordan.

MR. JORDAN: Call the previous question.

PRESIDENT CASSELL: Those in favor of cutting off debate, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Those in favor of the Schrag amendment, please raise your hands.

(A show of hands.)

MR. COOPER: Twenty-one.

PRESIDENT CASSELL: Those opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(A show of hands.)

MR. COOPER: One.

PRESIDENT CASSELL: The motion carries.

Mr. Coates?

MR. COATES: Mr. President, I move the adoption of the section entitled, "Misuse of Public Funds", on page 9, beginning at line 8, beginning with the words, "The use of

public funds".

MR. COOPER: Point of order.

PRESIDENT CASSELL: State your point.

MR. COOPER: We haven't adopted the section on "Limitations". All we voted on was one amendment to that section.

PRESIDENT CASSELL: Okay. Delegate Coates, do you want to make a motion to adopt the section on "Limitations"?

MR. COATES: The point of order being well-taken, I move the adoption of the section entitled, "Limitations", as amended.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that "Limitations" as amended be adopted. Those in favor?

MR. ROTHSCHILD: Discussion.

PRESIDENT CASSELL: Discussion. Jones, Rothschild, Talmadge Moore.

MS. JONES: I really don't know where to put this in, so I will ask Reverend Coates, since he was my representative on the School Board. But I wanted to speak to certain schools that have Title I children, which are not public schools, but provide a service for those children, a free lunch for the children who participate in those schools, and

the like. And I would be opposed to this amendment if it does not include these things. And my reason is very personal because I wouldn't like for my daughter to go to any kind of school that everybody did not have access to it.

That is what I would like to add, and I don't know where to put it, and I don't know what language to put it in. So, I'd give that to the Committee and ask that they include something about that.

MR. COATES: Delegate Croft?

MR. CROFT: Legal Counsel may be able to speak to the correction, but I went to one of those kinds of schools and it is my understanding that the way that the program is indeed set up, it is like the bus tokens. In other words, the school is merely the instrument by which the meals go from the Federal government to the students. And I think it is covered in that sense, that it is not the support from the state to a church; it is the state to the child, and the school is the instrument where it happens.

Am I correct, Legal Counsel?

MR. THOMAS: Yes, but can I ask a question? Does D.C. right now provide any hot lunches, or programs like that?

MR. CROFT: Yes, it does.

MS. STREET: May I speak to that? That money comes

from the Department of Agriculture, and is distributed to the schools.

MR. CROFT: And in this section, this section would not limit that. In other words, what we are saying is that it is the institution that cannot benefit, the religious institution that cannot benefit. That does not mean that the institution could not be used as the medium by which the state provide support to a child. In other words, things like that would be going to the child, and the child would be the person who would benefit, not the institution. The institution would merely be the instrument whereby the state transferred certain things to the child.

PRESIDENT CASSELL: Delegate Rothschild?

MR. ROTHSCHILD: I have a question to the Committee. By this language in this section, that "No appropriation shall every be made", and so on, does that for now and forever preclude the possibility of having some type of an educational value system, with a combination or mixture of public and private institutions?

MR. COATES: The answer to that, sir, is yes.

MR. ROTHSCHILD: Then, in that case, I am opposed to this section, as written. Thank you.

PRESIDENT CASSELL: Further discussion? Jackson?

MR. JACKSON: Call the question.

PRESIDENT CASSELL: Those in favor of putting off debate on this motion, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Okay. The motion before you is the section on "Limitations" as amended. Those in favor, signify by saying yes.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Okay. So adopted.

Delegate Coates?

MR. COATES: Mr. President, I move the adoption of the section entitled, "Misuse of Public Funds", on page 9, beginning at line 8.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded



that the section, "Misuse of Public Funds", be adopted.

Discussion? Delegate Coates?

MR. COATES: Mr. President, it is the Committee's position to delete this section, and I just wanted to call on Delegate Freeman to do that.

PRESIDENT COATES: Delegate Freeman?

MS. FREEMAN: Mr. President, I move to delete the section on "Misuse of Public Funds".

(The motion was duly seconded.)

MS. FREEMAN: The reason why I am doing so is it is addressed in the "Legislature" Article, where we have already adopted a section on this.

PRESIDENT CASSELL: Discussion on the motion?

(No response.)

PRESIDENT CASSELL: Those in favor, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Mr. President, I move the adoption of

the section entitled, "School Budget", beginning on page 9 at line 13, and continuing on to page 10, ending at line 7.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded that the section, "School Budget", be adopted.

Discussion? Delegate Mason?

MR. MASON: In the question and answer period, it was stated that the intent here was to continue the present arrangement by which the Board of Education had sole decision-making power as to how the money was used within the total amount that was appropriated, and I don't read that it says that very clearly here. I think the language should be cleaned up to provide that. When we get to the "Education" one, that may be cleared up, but it is not clear here. Maybe we should just leave the one that is peculiar to the schools until we get to "Education".

PRESIDENT CASSELL: Delegate Coates?

MR. COATES: Mr. President, when we adopted the section on "Veto Authority", the phrase, "as otherwise provided in this constitution", or something akin to that, was to accommodate the position adopted by the Education Committee, which speaks to a limit on the Governor's authority to line item veto line items in the public education budgets.

PRESIDENT CASSELL: Delegate Mason, does that respond to your question?

MR. MASON: But line item veto is not the only issue here. The issue is whether the fact that neither the Governor nor the legislature can specify how much is for books, how much is for salaries, how much is for anything that they use in the schools -- fuel, and so on.

MR. COATES: That's part of the Education Committee section.

MR. MASON: And in that event, wouldn't it be best just to leave this until we get to the Education Committee and then compare it with theirs and then insert anything that is missing from theirs?

MRS. MASON: I so move.

PRESIDENT CASSELL: Let me ask Dr. Austin if he remembers whether in the Education Committee's report that this particular issue is dealt with, and that is the authority to determine how the funds in the school system shall be used. If you are not clear on this. (Conferring.) I remember the draft that they had at the hearing. The hearing did deal with that, but I don't know how the final thing came out.

What is the motion, the motion that Delegate Mason made?

MR. MASON: To deter this section until we get to the Education Article, and insert any part of it that is still needed, so that that can be considered when we deal with the Education Article.

PRESIDENT CASSELL: We'll have an answer to this in a moment. (Conferring.) Delegate Coates?

MR. COATES: Mr. Chairman, the Committee urges us to consider this section which the Committee now recommends to us, for the following reasons.

The matter as to the sanctity of line item budget matters for education is addressed in the Education Article. Our action here tonight -- that is, the action we propose -- does not jeopardize that matter, or does not put it in a posture that the Education Committee's report cannot cure. In fact, we are silent with respect to that matter here. We urge further action here because this section goes beyond the Committee on Education's section, firstly to provide for a projection of plans, both in the operating area and in the capital area. It also provides for the submission with budget of a quantitative and qualitative analysis, so that budget decisions can be viewed by the public in the light of the extent to which the mission of the educational agencies has been achieved or not achieved, and what they project as

curative or responsive to what the public senses as the defect in the educational programs and agencies. So that it not simply a matter of the sanctity of the educational agencies line items. This proposal goes beyond that. So that we can act tonight, without hurting that prospect, later on in Education.

PRESIDENT CASSELL: Let me read what they will be presenting to us, and this is page 3 of 7, Item Number (d). "The Legislature shall appropriate each fiscal period a total sum for the public, primary, and secondary educational system, but not in a line item manner. The expenditures of this money shall be under the exclusive control of the State Board of Education."

Therefore, it seems that that is covered in the Education Article, and that what Delegate Coates has indicated is there is nothing in this language, in the Finance and Taxation Article, which in any way jeopardizes that. I would think that we could move on to adopt this or to discuss and consider adopting this section.

Delegate Graham?

MS. GRAHAM: I would like to see, on page 10 of 10, line 1, I would like to see "detailed" eliminated, deleted, from that, because I don't think that the legislative district should send to the Governor detailed estimates. I

think it is all right to give the Governor estimates, but from the legislative districts. I think they could make it right in there and let it go. I'm talking about the schools within the legislative districts. I grew up in a county, and the counties did everything in that county, and maybe they gave a budget for the schools in the county to the Governor, but it was not a detailed thing, and this is what I am talking about. I don't like the idea of having to send the Governor a detailed budget. I don't think he should have that.

PRESIDENT CASSELL: Delegate Kameny?

MR. KAMENY: Just a quick question, so that there will be no problems when we iron things out later. I assume that your phrase, or the Committee's phrase, "the governing body of the schools", can be taken to mean the State Board of Education, which is used in the Education Article, so that when Style and Drafting gets to it, they can use similar terminology without having to come back to the Committee.

MR. COATES: That is correct, sir.

MR. KAMENY: Fine. That's on the record.

PRESIDENT CASSELL: Okay. The motion on the floor now is to adopt the section on "School Budget". Is there any further discussion on that?

MR. MASON: Did Delegate Graham offer an amendment



to strike the word, "detailed"?

PRESIDENT CASSELL: Delegate Graham, was that an amendment, or just a suggestion?

MS. GRAHAM: I want to amend this to delete "detailed".--

MR. KAMENY: Second.

MS. GRAHAM: -- and let it read, "and submit to the Governor estimates of the expenditures and appropriations necessary".

PRESIDENT CASSELL: Okay, on page 10 of 10, line 1, which now reads, "and submit to the Governor detailed estimates of the expenditures", to delete the word, "detailed".

Discussion? Delegate Jackson?

MR. JACKSON: I, as a citizen, want to know everything or as much about every penny spent.

MS. GRAHAM: You would, and --

MR. JACKSON: I don't know enough now, and God knows, when I speak to Marion Barry and Betty Ann Kane, and she says, "You ain't doing it", and he says, "I'm doing it", and all this stuff, I get mad. So I don't want the "Washington Post" to have to tell me who is spending; I want to know from my legislature. For that reason, I applaud the Committee for putting that in there, and I support it. Thank you.



PRESIDENT CASSELL: Further discussion?

(No response.)

PRESIDENT CASSELL: Those in favor of the amendment to eliminate the word, "detailed", signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: The motion loses.

Delegate Coates, any further amendments?

MR. COATES: No, sir.

PRESIDENT CASSELL: Those in favor of accepting the section on "School Budget", signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(No response.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Next section, "State Courts' Budget". Are we ready?

(Committee conferring.)

PRESIDENT CASSELL: I take it that the Committee is

still getting themselves ready?

MR. COATES: Yes, we are.

Mr. President, I move the adoption of a section entitled, "State Courts' Budget", occurring on page 10, beginning at line 8 and beginning with the words, "The courts of the state" and ending on page 11 of 11.

(The motion was duly seconded.)

MR. KAMENY: It is 11 of 10.

PRESIDENT CASSELL: It has been moved and seconded that the section on "State Courts' Budget" be adopted.

Discussion? Brian Moore?

MR. B. MOORE: There is a similar article in the Judiciary section regarding financing of the courts. It is almost identical, unless it was tabled until discussion of this article.

Do you recall, Chairman Coates, if the decision in the Judiciary regarding financing was postponed to do this section -- and if it wasn't, I think they are very similar and seem to be redundant.

PRESIDENT CASSELL: Delegate Schrag?

MR. SCHRAG: I rise to the same point that Brian Moore did, and I will make a motion to delete this section.

The reason is that in the Judiciary Article, we have adopted a section that was distributed to all of you tonight for second reading, which reads, "the Chief Justice of the Supreme Court shall submit to the Governor an annual budget for the judicial system...The Governor shall transmit the proposed budget to the Legislature without changing it, but may make recommendations with respect to it. The Governor shall not be required to propose revenues to fund the entire submission but must propose revenues to finance that portion of the proposed budget recommended for acceptance by the Legislature."

Now, we had a fair amount of discussion the night we adopted this, and there are some slight differences, but they are not of such consequence to merit another ten minutes on this floor. They require a report, and they require a separation of the capital from the operating budget, but I submit that those are items that the legislature can require anyway; they are not matters that we have to deal with in this constitution, and I submit we strike this section and go on for the evening.

(The motion was duly seconded.)

PRESIDENT CASSELL: Delegates Thomas, Jordan, Baldwin.

Was that a motion? It has been moved and seconded

that the section on "State Courts' Budget" be struck.

Discussion? Delegate Baldwin?

MR. BALDWIN: I rise in support of the Schrag amendment. I can hear a lot of people out there saying, "Well that's the same thing you did for education." The only difference is, Judiciary is up for a second reading, so you don't get that chance to make any substance changes. So there is a vast difference, and I think we need to support the Schrag amendment and delete that, because we can't make any changes now in the Judiciary Article.

PRESIDENT CASSELL: Delegate Jordan?

MR. JORDAN: I rise to oppose the amendment that has been put forth by Delegate Schrag and supported by two other esteemed colleagues here. There are several reasons why I am opposed. First of all, the argument they are presenting that it has already been dealt with by another Committee, and it will be up for second reading is not persuasive. We just voted on Education; we voted consistently this evening to deal with items that have been dealt with by other committees, so I don't think that argument is persuasive. Even the maker of the motion himself has indicated that there is no irreconcilable conflict between what is contained in this Committee's report and what is contained in the report from the Judiciary Committee.

And one final point. There are some desirable goals that are contained in the Finance and Taxation Committee report. They require that the courts submit a statement presenting a qualitative and quantitative description of court activities. Now, Mr. President, someone can say that it will be done by the legislature, but there is no assurance that it will be done. So I just feel that since there is no real conflict between the language, since it doesn't -- as Delegate Schrag likes to consistently talk -- "it doesn't do any harm" to the article that has been adopted by Judiciary --

(Laughter.)

MR. JORDAN: -- I think that we ought to -- it won't take us ten minutes to vote on this this evening -- we can vote in support of this Committee that Style and Drafting reconcile the differences, and we can vote on it. I don't think it is going to pose a major problem.

PRESIDENT CASSELL: The motion on the floor is to delete the section on "State Courts' Budget". Further discussion?

Cooper?

MR. COOPER: I think what we see here in the Schrag amendment is a smokescreen. Now, the other day, Delegate Maguire pointed out to this body that she was not willing to

vote on anything for second reading until all of the first readings were complete, because of these types of inconsistencies that can and would and have come up.

So I, too, am against the Schrag amendment, because I think the only purpose it serves is to try and expedite the work of Style and Drafting by force-feeding us something that we previously adopted and thereby handclasping us from adopting something that would, in fact, cause an inconsistency. I think we have to give the Finance and Taxation Article full consideration, and we have to give the remaining articles full consideration before we take anything to second reading. so that we can come out ahead with the best language that this body can adopt.

PRESIDENT CASSELL: Ladies and gentlemen, there has been a rather full discussion. Can we vote on this now? Is there anything that hasn't been said before? May we vote?

Jackson?

MR. JACKSON: Yes, sir. It seems to me that the Committee has been quite good tonight, and we have taken their advice on most occasions, and I think they have given us very good advice. Mr. Jordan is absolutely right that there is a difference here in that we state that the courts are required



to give a qualitative and quantitative estimate and appraisal of what they have done. For that reason, Mr. Chair, I think the Committee has done well to leave it there, and I hope that they won't support that.

PRESIDENT CASSELL: Last statement, Schrag.

MR. SCHRAG: Several speakers tonight have been very cavalier in their references to Style and Drafting. "Let Style and Drafting take care of this, let Style and Drafting take care of that." I want to remind the members of this august body that we have very few days left, and Style and Drafting is currently deluged with articles that have passed on first reading, and we are meeting in the afternoons every day, trying to get these articles to you for second reading. The more conflicts you create, the more we have to go back over work we have already done, the more problems we are going to have, helping you to complete your work on time.

This is no trivial matter to create conflicts -- it is worth creating a conflict if it is a serious, substantive point. I suggest to you that this time, there is no serious point worth even an extra hour of Style and Drafting's work and this Convention's work. It is just not worth it. Let's streamline our work from this point on in the Convention.

PRESIDENT CASSELL: Ladies and gentlemen, can we



vote now? Those in favor of the motion to delete, signify by raising your hands.

(A show of hands.)

MR. COOPER: Eight.

PRESIDENT CASSELL: Those opposed?

(A show of hands.)

MR. COOPER: Twelve.

PRESIDENT CASSELL: Those abstaining?

(A show of hands.)

MR. COOPER: Two.

PRESIDENT CASSELL: The motion loses. The original motion now is to adopt "State Courts' Budget".

Discussion?

MR. CROFT: Call the question.

(The motion was duly seconded.)

PRESIDENT CASSELL: Those in favor of cutting off debate?

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(No response.)

PRESIDENT CASSELL: Okay. Those in favor of

"State Courts' Budget" as written, signify by saying aye.

(A chorus of ayes.)

PRESIDENT CASSELL: Opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(A show of hands.)

PRESIDENT CASSELL: The motion carries.

Delegate Coates?

MR. COATES: Mr. President, it is my happy pleasure, sir, here on 5-17-82 at 10:53 p.m., to thank the members of the Committee on Finance and Taxation, Delegates Barnes, Bruning, Cassell, Cooper, Croft, Freeman, Garner, and Nixon --

PRESIDENT CASSELL: Please, the Chairperson of this Committee is making some rather important remarks, and this is an historic occasion, and I'll tell you why in a minute.

Go ahead.

MR. COATES: I'd like to thank the members of the Committee on Finance and Taxation, Delegates Barnes, Bruning, Cassell, Cooper, Croft, Freeman, Garner and Nixon, and to thank our General Counsel, to thank delegates severally positioned on other committees for sharing with us in advance, such that we could complete action in first reading in one plenary session of this Convention.

I therefore move adoption of the Article on  
"Finance and Taxation" as amended.

(The motion was duly seconded.)

PRESIDENT CASSELL: It has been moved and seconded  
that we adopt the Article on "Finance and Taxation". Those  
in favor?

(A chorus of ayes.)

PRESIDENT CASSELL: Those opposed?

(A chorus of nos.)

PRESIDENT CASSELL: Abstain?

(A show of hands.)

PRESIDENT CASSELL: It is adopted.

(Applause.)

PRESIDENT CASSELL: Ladies and gentlemen, I just  
want to state for the record what we all know. This is the  
first Committee that has begun and completed its work in one  
night. Now, if it is possible to do that tonight, let's try  
and do it again tomorrow night, and I promise to try to get  
here at four o'clock sharp, and if I'm not here, then Baldwin  
will be here.

Mr. Baldwin?

MR. BALDWIN: I would suggest, Mr. Chairman, that --

(Simultaneous discussion.)

PRESIDENT CASSELL: Local Government tomorrow, and the second reading for Judiciary, and Preamble, also. Local Government should be short, Preamble should be short, and the Judiciary second reading.

MR. KAMENY: Mr. President?

PRESIDENT CASSELL: Yes, sir.

MR. KAMENY: A matter of pressing business to a number of delegates. Commencing a couple of days ago, a number of us have begun receiving parking tickets along the side of the FBI Building, where parking was, and we contend, still is legal. We have been told repeatedly that you would take care of these and cause the cessation of the issuance of the tickets. What are you going to do about it?

PRESIDENT CASSELL: Who is the source of this misinformation, anyway?

MS. JONES: (Inaudible comment.)

PRESIDENT CASSELL: All right, this is the first I've heard of this. Which officer was that, Delegate Jones?

MS. JONES: I don't know. You'll have to get his name from Delegate Love.

PRESIDENT CASSELL: It's a simple thing to do.

MR. KAMENY: Well, remember, these double after 15 days, so action has to be taken fast.

PRESIDENT CASSELL: Everybody who has tickets that should not have been given, not those that you deserve, now, please leave them with Ms. Ellington, and we'll write a letter to the proper authorities, and maybe we'll ask one of our delegates who knows how to fix tickets, or whatever. Please give them to Ms. Ellington.

MR. COATES: I move we adjourn.

(The motion was duly seconded.)

PRESIDENT CASSELL: We are adjourned.

(Whereupon, at 11:00 o'clock p.m., the proceedings were adjourned, to reconvene Tuesday, May 18, 1982, at 4:00 p.m.)